



CDBG/HOME PROGRAM POLICY AND PROCEDURES MANUAL

SUBJECT: CDBG & HOME RENTAL REHABILITATION

PURPOSE

The primary objective of Title I of the Housing and Community Development Act of 1974, as amended, is the development of viable urban communities. This is achieved by: providing decent housing, providing a suitable living environment, and expanding economic opportunities. This activity meets the national objective of benefiting low-and-moderate-income persons.

The HOME Program was created by the National Affordable Housing Act of 1990 (NAHA), and has been amended several times by subsequent legislation. The intent of the HOME Program is to provide decent affordable housing to lower-income households, expand the capacity of nonprofit housing providers, strengthen the ability of state and local governments to provide housing, and leverage private sector participation.

This program meets the Dane County Consolidated Plan priority of providing for the rehabilitation of affordable renter-occupied housing units.

HUD CDBG POLICY:

While CDBG funds may also be used to acquire new rental housing, the plan in Dane County is to use the funds solely to rehabilitate rental housing. Conversion of a closed building from one use to a residential use is also eligible, such as the conversion of a closed school or warehouse to a residential use.

Eligible rehabilitation and preservation activities – 24CFR570.202 (b):

CDBG funds may be used to finance the following types of rehabilitation activities, and related costs, either singly, or in combination, through the use of grants, loans, loan guarantees, interest supplements, or other means for buildings and improvements.

1. Assistance to private individuals and entities, including profit making and nonprofit organizations, to acquire for the purpose of rehabilitation, and to rehabilitate properties, for use or resale for residential purposes;
2. Labor, materials, and other costs of rehabilitation of properties, including repair directed toward an accumulation of deferred maintenance, replacement of principal fixtures and components of existing structures, installation of security devices, including smoke detectors and dead bolt locks, and renovation through alterations, additions to, or enhancements of existing structures and improvements, abatement of asbestos hazards (and other contaminants) in buildings and improvements that may be undertaken singly, or in combination;
3. Loans for refinancing existing indebtedness secured by a property being rehabilitated with CDBG funds if such financing is determined by the recipient to be necessary or appropriate to achieve the locality's community development objectives;
4. Improvements to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion,

- modification, or replacement of heating and cooling equipment, including the use of solar energy equipment;
5. Improvements to increase the efficient use of water through such means as water savings faucets and shower heads and repair of water leaks;
 6. Connection of residential structures to water distribution lines or local sewer connection lines;
 7. For rehabilitation carried out with CDBG funds, costs of:
 - a. Initial homeowner warranty premiums;
 - b. Hazard insurance premiums, except where assistance is provided in the form of a grant; and
 - c. Flood insurance premiums for properties covered by the Flood Disaster Protection Act of 1973, pursuant to Sec. 570.605.
 8. Costs of acquiring tools to be lent to owners, tenants, and others who will use tools to carry out rehabilitation;
 9. Rehabilitation services, such as rehabilitation counseling, energy auditing, preparation of work specifications, loan processing, inspections, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in rehabilitation activities authorized under this section, under section 312 of the Housing Act of 1964, as amended, under section 810 of the Act, or under section 17 of the United States Housing Act of 1937;
 10. Assistance for the rehabilitation of housing under section 17 of the United States Housing Act of 1937; and
 11. Improvements designed to remove material and architectural barriers that restrict the mobility or accessibility of elderly or severely disabled persons to buildings and improvements eligible for assistance under paragraph (a) of this section.

HUD HOME POLICY:**Eligible Activities – 24CFR92.205 (a) (1):**

HOME funds may be used by a participating jurisdiction to provide incentives to develop and support affordable rental housing and homeownership affordability through the acquisition (including assistance to homebuyers), new construction, reconstruction, or rehabilitation of non-luxury housing with suitable amenities, including real property acquisition, site improvements, conversion, demolition, and other expenses, including financing costs, relocation expenses of any displaced persons, families, businesses, or organizations; to provide tenant-based rental assistance, including security deposits; to provide payment of reasonable administrative and planning costs; and to provide for the payment of operating expenses of community housing development organizations. The housing must be permanent or transitional housing.

Eligible Activities – 24CFR92.205 (b)(1):

A participating jurisdiction may invest HOME funds as equity investments, interest-bearing loans or advances, non-interest bearing loans or advances, interest subsidies consistent with the purposes of this part, deferred payment loans, grants, or other forms of assistance that HUD determines to be consistent with the purposes of this part. Each participating jurisdiction has the right to establish the terms of assistance, subject to the requirements of this part.

RIGHT TO FINANCIAL PRIVACY ACT OF 1978 NOTICE

The Department of Housing and Urban Development (HUD) has a right of access to financial records held by any financial institution in connection with the consideration or administration of the rehabilitation loan for which the borrower applied. Financial records involving the transaction will be available to HUD but will not be disclosed or released to another Government agency or Department without the borrower's consent except as required or permitted by law.

ELIGIBLE APPLICANTS

In order to be considered for financing, applicants must meet the following requirements:

- Be legally capable of entering into a binding agreement;
- Be a U.S. Citizen or legally admitted resident alien;

- Be the property owner of record;
- Demonstrate that the property to be rehabilitated is economically viable and the borrower(s), if applicable, will have the economic ability to repay the funds;
- Be current on all personal and business income and property taxes, and mortgage payments on subject property;
- Not-for profits corporations are eligible to apply. The corporation must be a 501(c) 3 or 4 tax exempt organization.

ELIGIBLE PROPERTIES

- a. The property must be located in one of the participating municipalities of the Dane County Urban County Consortium.
- b. Eligible properties may be publicly or privately owned; and residential or mixed use.
- c. Transitional, as well as, permanent housing, including group homes and SROs, is allowed.
- d. Property must pass an environmental review conducted by Dane County Community Development Block Grant staff before funds will be committed.
- e. Property must meet all applicable State and local code requirements, and must meet the housing quality standards in 24 CFR 982.401 by project completion.
- f. Properties constructed or manufactured before 1978 must be inspected for lead-based paint hazards. If deteriorated paint is found it must be properly remediated in compliance with the Lead Safe Housing Rule.

REHABILITATION STANDARDS

Housing that is being rehabilitated with HOME and/or CDBG funds must meet all applicable state and local codes, rehabilitation standards and ordinances, and zoning ordinances at the time of project completion. The work being undertaken must comply with the standards set forth in the *Dane County CDBG and HOME Rehabilitation Standards* that are intended to assure that improved housing is livable, healthful, safe, and physically sound. The housing must also meet handicapped accessibility requirements, where applicable.

SUBSIDY LAYERING

HUD establishes limits on the amount of HOME funds that may be invested in affordable housing on a per-unit basis for specific areas. A subsidy layering evaluation will be done on all HOME-funded projects to ensure that no more HOME funds are invested than are necessary to provide affordable housing.

MATCHING FUNDS

The Rental Rehabilitation Loan program requires “matching funds” from the property owner. The County may loan up to 75% of the total cost of a project.

ELIGIBLE EXPENSE CATEGORIES

The following categories of expense shall be considered eligible for funding under the program.

- All work identified as not meeting the housing quality standards in 24 CFR 982.401 or applicable local standards;
- Repair or replacement of major housing systems in danger of failure;

- Improvements designed to remove material and architectural barriers that restrict the mobility or accessibility of the unit;
- Improvements necessary to eliminate or reduce lead-based paint hazards;
- Energy-related repairs or improvements;
- Architectural, engineering or related professional services required in the preparation of rehabilitation plans and drawings or write-ups;
- Costs for processing and settling the financing for a project, such as credit reports, fees for title evidence, fees for recordation and filing of legal documents, building permits, private appraisal fees and fees for an independent rehabilitation cost estimate.

INELIGIBLE EXPENSE CATEGORIES

The following categories of expense shall be considered ineligible for funding under the program.

- Property acquisition;
- Refinancing of existing debt;
- New construction of building additions or additional rental dwelling units;
- New construction of decks, fireplaces, outbuildings, or recreational or entertainment facilities;
- Construction items and expenses that are completed before loan approval.

AFFORDABILITY PERIOD

HOME-assisted rental units carry rent and occupancy restrictions for varying lengths of time depending upon the average amount of HOME funds invested per unit:

Activity	Average Per-Unit HOME \$	Minimum Affordability Period
Rehabilitation of Existing Housing	<\$15,000/unit	5 years
	\$15,000-40,000/unit	10 years
	>\$40,000	15 years

The affordability requirements will be enforced by deed restriction and apply without regard to the term of any loan or mortgage or the transfer of ownership.

CDBG assisted rental units must agree to abide by program rent limits, and rent assisted units to low-to-moderate income tenants through the lesser of the term of the loan, if applicable, or 5 years from project completion.

TENANT INCOME ELIGIBILITY REQUIREMENTS

Tenants residing in CDBG or HOME-assisted rental housing must meet the following income requirements. Verification of tenant income will be required.

HOME Program Tenant Income Requirements

- a. 90% of HOME-assisted rental units must be occupied by households with incomes that do not exceed 60 percent of the area median income.
- b. In projects of five or more HOME-assisted units, at least 20 percent of the HOME-assisted rental units must be occupied by households who have incomes that are 50 percent or less of the area median income. These tenants must occupy units at or below the Low HOME Rent Level as determined by HUD.

- c. HOME funds may be used to assist mixed-income projects but only HOME-eligible tenants may occupy HOME-assisted units.

CDBG Program Tenant Income Requirements

- a. All assisted single unit structures must be occupied by low-to-moderate income households as defined in 24 CFR 570.3
- b. An assisted two-unit structure must have at least one unit occupied by a low-to-moderate income household as defined in 24 CFR 570.3, and
- c. An assisted structure containing more than two units must have at least 75% of the units occupied by low-to-moderate income households as defined in 24 CFR 570.3.

RENT LIMITS

Initial Project Rents

- a. Properties being assisted with either CDBG or HOME funds must comply with the rent limitations determined by HUD and explained in 24 CFR 92.252(a).
- b. In addition, in rental projects with five or more HOME-assisted rental units, twenty percent of the HOME-assisted must be occupied by very low-income households and rent should not exceed 30 percent of the annual income of a family whose income equals 50 percent of the median income for the area, as determined by HUD in compliance with 24 CFR 92.252(b)
- c. All initial project rents will be approved in accordance with 24 CFR 92.252(c).

Subsequent Rents

- a. The maximum rents are recalculated by HUD on a periodic basis and will be made available to rental project owners/managers. Regardless of changes in fair market rents and in median income over time, the HOME rents for a project are not required to be lower than the HOME rent limits for the project in effect at the time of project commitment.
- b. Owners of HOME or CDBG-assisted rental housing must annually provide information on rents and tenant occupancy to demonstrate compliance with program requirements.

PROPERTY STANDARDS

- a. Rehabilitated housing must meet all applicable local codes, rehabilitation standards, ordinances, and zoning ordinances the time of project completion. Housing must all meet the housing quality standards in 24 CFR 982.401. The property must also meet all applicable requirements of the Lead Safe Housing Rule 24 CFR 35.
- b. All rehabilitation work must be done in compliance with the Dane County CDBG and HOME Program Rehabilitation Standards.
- c. Rental project owners must maintain the housing in compliance with all applicable State and local requirements, and the housing quality standards in 24 CFR 982.401 through the affordability period.

PROCUREMENT REQUIREMENTS

1. Subrecipients of County CDBG or HOME funding will comply with the procurement standards under 24 CFR 85.36 for governmental subrecipients and 24 CFR 84.40-48 for subrecipients that are non-profit organizations, including the requirements for bonding in procurement.
2. The Subrecipient is the responsible authority, without recourse to HUD or the County regarding the settlement of all contractual and administrative issues arising out of the procurement entered in support of the award or other agreement.
3. The Subrecipient shall conduct all procurement in a manner to provide to the maximum extent practicable, open and free competition. Contractors that develop or draft specifications, requirements, statement of work, invitations for bids or requests for proposals shall be excluded from competing for a project.
4. General requirements for procurement include, but are not limited to:
 - a. Subrecipients must maintain records to detail the significant history of procurement. These records include, but are not limited to: files on the rationale for selecting the method of procurement used, selection of the contract type, the contractor selection/rejection process, and the basis for the cost or price of a contract.

- b. Pre-qualified lists of vendors/contractors, if used, must be current, developed through open solicitation, include adequate numbers of qualified sources, and must allow entry of other firms to qualify at any time.
- c. Steps should be taken to assure that women and minority businesses are utilized when possible as the sources of supplies, equipment, construction and services.
- d. Subrecipients must ensure that awards are not made to any party that is debarred or suspended or is otherwise excluded from or ineligible for participation in the Federal assistance programs under Executive Order 12549.
- e. There must be written selection procedures for procurement transactions.
- f. Subrecipients must not use *cost plus a percentage of cost* pricing for contracts. In addition, Subrecipients should use *time and material* type contracts only after a determination is made that no other contract type is suitable and the contract includes a ceiling price that the contractor exceeds at its own risk.
- g. Subrecipients must have protest procedures in place to handle and resolve disputes relating to their procurement and in all instances report such disputes to the County.
- h. There must be a documented system of contract administration for determining the consistency of contractor performance.
- i. Subrecipients must have a written code of conduct governing employees, officers, or agents engaged in the award or administration of contracts.

LABOR STANDARDS REQUIREMENTS (ALSO KNOWN AS DAVIS-BACON)

These HUD requirements apply to rehabilitation or construction projects with **12 or more HOME-assisted units or 8 or more CDBG-assisted units** and apply to the entire project, not just the portion funded by County HOME or CDBG funds. If a grant contract is awarded and Davis-Bacon will be triggered, labor standards requirements will be described in detail in the contract with the County. Additional information also can be obtained in the *HUD Contractor's Guide to Prevailing Wage Requirements for Federally-Assisted Construction Projects* at <http://www.hud.gov/offices/olr/library.cfm>.

General requirements are as follows:

1. **Wage Rate Decisions** – The Davis-Bacon wage decision that applies to a project contains a schedule of work/job classifications and the minimum wage rates that must be paid to persons performing particular jobs. If a work classification that is needed for the project does not appear on the wage decision, the County must request an additional classification and wage rate from HUD. Any apprentices and trainees working on the job site must participate in a bona fide apprenticeship program registered with the U.S. Department of Labor or in a State program that is recognized by the U.S. Department of Labor. The ratio of trainees to journeymen on the job site cannot be greater than permitted under the plan approved by the U.S. Department of Labor.
2. **Labor Clauses and Wage Decisions in Bid and Contract Documents** – The labor clauses and the applicable wage rate decision (and any additional classifications) must be a physical part of the bid package. They can be obtained from the County. The labor clauses obligate the contractor to comply with Davis-Bacon wage and reporting requirements and provide remedies and sanctions in the event of violations.
3. **Pre-construction Conference** – The County requires that a pre-construction conference be held with the prime contractor before construction begins to explain the Federal labor standards and other contractual requirements. Please note that the County cannot authorize payment of an invoice until all these requirements are met.
4. **Payroll Review** – Once the rehabilitation is underway, the prime/general contractor should complete a weekly payroll report for its employees on the covered job and sign the Statement of Compliance. The prime/general contractor must also obtain weekly payrolls (including signed Statements of Compliance) from all subcontractors as they work on the project.
5. **On-site Worker Interviews** – HUD labor standards require the County to periodically conduct job site interviews with workers. The purpose of the interview is to obtain job information to verify that workers worked the number of hours listed in the payroll and are paid the required hourly rate plus fringe benefits.

DISPLACEMENT, RELOCATION, AND ACQUISITION

The Uniform Act, passed by Congress in 1970, is a federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms. The Uniform Act's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects.

Relocation benefits may be triggered under the URA when tenants occupy the property. Some examples of situations that would be considered displacement are:

- Failure to Inform Tenant in a Timely Manner of the impact of the project on him/her;
- Involuntary Moves. If a tenant must move in response to a notice to vacate premises because of impending acquisition and rehabilitation, or demolition;
- Non-Renewal of Lease. If a move results from the owner's refusal to renew an expiring lease; and
- Economic Displacement caused by the changing rental structure of the proposed project.

Note: This is not an exhaustive list of displacement situations.

Residential tenants of projects assisted with CDBG or HOME funds, who are required to move temporarily must be provided reimbursement for relocation to suitable, decent, safe and sanitary housing and given advance written notice of the date and duration of the temporary relocation. Such temporarily relocated residents must be provided a reasonable opportunity to lease and occupy a suitable and affordable unit in the rehabilitated building upon completion of the project. URA requirements may be applicable in many instances when HOME or CDBG funds are used. Participants must comply with federal regulations regarding displacement and relocation of households affected by projects using CDBG or HOME funds.
(For details see: the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1976 [URA] [49 CFR Part 24], and the Fair Housing Act)